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**AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE
REPUBLIC OF KOREA AMENDING THE AGREEMENT UNDER ARTICLE IV OF
THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF
AMERICA AND THE REPUBLIC OF KOREA, REGARDING FACILITIES AND
AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN THE
REPUBLIC OF KOREA OF JULY 9, 1966, AS AMENDED**

The United States of America and the Republic of Korea,

Desiring to amend the Agreement between the United States of America and the Republic of Korea Under Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, Regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea, signed at Seoul July 9, 1966, as amended,

Have agreed as follows:

ARTICLE I

Article XXII Paragraph 5 (c) shall be amended to read as follows:

The custody of an accused member of the United States armed forces or civilian component, or of a dependent, over whom the Republic of Korea is to exercise jurisdiction shall remain with the military authorities of the United States until he is indicted by the Republic of Korea.

ARTICLE II

This Agreement shall enter into force one month after the date of a written notification from the Government of the Republic of Korea to the Government of the United States of America that it has approved the Agreement in accordance with its legal procedures.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Seoul this day of January, 2001, in duplicate, in the English and Korean languages, both texts being equally authentic, and in the case of divergence, the English text shall prevail.

FOR THE UNITED STATES
OF AMERICA:

FOR THE REPUBLIC
OF KOREA:

**AMENDMENTS TO THE AGREED MINUTES OF JULY 9, 1966 TO THE
AGREEMENT UNDER ARTICLE IV OF THE MUTUAL DEFENSE TREATY
BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF
KOREA, REGARDING FACILITIES AND AREAS AND THE STATUS OF UNITED
STATES ARMED FORCES IN THE REPUBLIC OF KOREA, AS AMENDED**

The United States of America and the Republic of Korea agree to amend the Agreed Minutes of July 9, 1966 to the Agreement Under Article IV of the Mutual Defense Treaty between the United States of America and the Republic of Korea, Regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea, with Agreed Minutes, as amended, as follows:

ARTICLE III

Add a new Agreed Minute re Paragraph 2:

The United States Government and the Republic of Korea Government recognize and acknowledge the importance of environmental protection in the context of defense activities in the Republic of Korea under the Mutual Defense Treaty of 1953. The United States Government commits itself to implementing this Agreement in a manner consistent with the protection of the natural environment and human health, and confirms its policy to respect relevant Republic of Korea Government environmental laws, regulations, and standards. The Republic of Korea Government confirms its policy to implement its environmental laws, regulations, and standards with due regard for the health and safety of United States personnel.

ARTICLE XVII

Amend Paragraph 2 to read as follows:

The undertaking of the Government of the United States to conform to the provisions of the labor legislation of the Republic of Korea does not imply any waiver by the Government of the United States of its immunities under international law. The Government of the United States shall not terminate employment unless there is just cause or unless such employment is inconsistent with the military requirements of the United States armed forces. When military requirements make reductions necessary, the Government of the United States shall endeavor to minimize employee terminations to the extent possible.

ARTICLE XXII

Add a new Agreed Minute re Paragraph 5(c):

1. In the event the Republic of Korea authorities have arrested an accused who is a member of the United States armed forces or the civilian component, or a dependent, with respect to a case over which the Republic of Korea has the primary right to exercise jurisdiction, the Korean authorities will, on request, hand him over to the custody of the United States military authorities, provided that he shall, on request, be made available to the Republic of Korea authorities, for the purposes of investigation and trial.

2. In cases where the Republic of Korea authorities have arrested an accused who is a member of the United States armed forces or the civilian component, or a dependent at the scene of the crime, in immediate flight therefrom or prior to the accused's return to U.S. control and there is adequate cause to believe that he has committed a heinous crime of murder or an egregious rape, and there is necessity to retain him for the reason that he may destroy evidence; he may escape; or he may cause harm to the life, person or property of a victim or a potential witness, the United States military authorities agree not to request transfer of custody unless there is legitimate cause to believe that a failure to request custody would result in prejudice to an accused's right to a fair trial.

3. The military authorities of the United States shall transfer custody to the Republic of Korea authorities if the offense over which the Republic of Korea has the primary right of jurisdiction and for which the Republic of Korea has requested the transfer of custody at the time of indictment or thereafter falls within the following categories of cases of sufficient gravity to warrant custody and adequate cause and necessity exists for such custody:

- (a) murder;
- (b) rape (including quasi-rape and sexual intercourse with a minor under thirteen years of age);
- (c) kidnapping for ransom;
- (d) trafficking in illegal drugs;
- (e) manufacturing illegal drugs for the purposes of distribution;
- (f) arson;

- (g) robbery with a dangerous weapon;
- (h) attempts to commit the foregoing offenses;
- (i) assault resulting in death;
- (j) driving under the influence of alcohol, resulting in death;
- (k) fleeing the crime scene after committing a traffic accident resulting in death;
- (l) offenses which include one or more of the above-referenced offenses as lesser included offenses.

4. “Adequate cause” that the accused committed the offense charged shall be a judicial determination that there exist reasonable grounds to believe that the accused committed the offense. Such judicial determination shall be made in accordance with the laws of the Republic of Korea.

5. “Necessity” for pretrial custody shall be a judicial determination that confinement of the accused is required because there is reasonable ground to suspect that the accused has destroyed or may destroy evidence; that the accused may flee; or that the accused is likely to cause harm to the life, person or property of a victim, a potential witness, or a family member of a victim or potential witness. Such judicial determination shall be made in accordance with the laws of the Republic of Korea.

6. In all situations where authorized under the law of the Republic of Korea, a preliminary hearing to examine the legality of any arrest, detention or request for either, is automatically requested by and on behalf of the accused and will be held. The accused and counsel for the accused shall be present and shall be permitted to participate. The United States representative shall also be present.

7. The right to request bail and to a review by a judge before deciding any such request shall be a continuing right that the accused, his counsel or his family may assert at any time prior to completion of all judicial proceedings.

8. The authorities of the Republic of Korea shall give sympathetic consideration to a request by the military authorities of the United States to forgo or postpone pre-trial custody in special cases where the accused is ill, injured, or pregnant.

9. When an accused is in the custody of the military authorities of the United States, the military authorities of the United States shall promptly make any such accused available to the authorities of the Republic of Korea upon their request for the purposes of investigation and trial, and shall take all appropriate measures to that end and to prevent any prejudice to the course of justice.

10. When an accused has been in the custody of the military authorities of the United States, the military authorities of the United States may transfer custody to the authorities of the Republic of Korea at any time. At any time after the custody of an accused has been transferred to the authorities of the Republic of Korea by the military authorities of the United States, the authorities of the Republic of Korea may transfer custody to the military authorities of the United States.

11. The military authorities of the United States shall give sympathetic consideration to any request for transfer of custody which may be made by the authorities of the Republic of Korea in specific cases.

Add a new Agreed Minute re Paragraph 7(b):

The authorities of the Republic of Korea will give full account to any special view expressed by the military authorities of the United States regarding the execution of the sentence in specific cases.

Amend Paragraph 9(e) to read as follows:

The right to legal representation shall exist from the moment of arrest or detention and shall include the right to have counsel present and to consult confidentially with such counsel, at all preliminary investigations, examinations, pretrial hearings, the trial itself, and subsequent proceedings at which the accused is present. The right to counsel will be respected in all investigative and judicial proceedings to the greater extent permitted by this Agreement or by the law of the Republic of Korea.

Amend Paragraph 9(g) to read as follows:

The right to communicate with a representative of the Government of the United States shall exist from the moment of arrest or detention, and no statement of the accused taken in the absence of such a representative shall be admissible as evidence in support of the guilt of the accused. Such representative shall be entitled to be present at all preliminary investigations,

examinations, pretrial hearings, the trial itself and subsequent proceedings, at which the accused is present. The U.S. authorities shall, upon request, ensure the prompt presence of the representative of the Government of the United States in order to prevent unnecessary delay of the preliminary investigation or any subsequent proceedings.

Amend the fifth unnumbered paragraph re Paragraph 9 to read as follows:

The authorities of the Republic of Korea shall, upon request from the military authorities of the United States, permit them to visit and observe any areas of any confinement facilities of the Republic of Korea in which a member of the United States armed forces or civilian component, or a dependent is confined, or in which it is proposed to confine such an individual.

Add a new Agreed Minute re Paragraphs 5(c) and 9:

1. If the authorities of the Republic of Korea or the military authorities of the United States believe an infringement of this agreement may have occurred, the appropriate branch, district or similar level prosecutor and the staff judge advocate or appropriate legal officer will seek to resolve the matter within 10 days of either party notifying the other of such infringement. If the matter is not satisfactorily resolved within these 10 days, either party may send written notice to the Joint Committee describing the circumstances and the basis of the alleged infringement.

2. If the matter is not resolved by the Joint Committee or otherwise between the parties within 21 days of receipt by the Joint Committee of the written notice, either representative to the Joint Committee may refer the matter to the respective Governments for resolution through appropriate channels in accordance with Paragraph 3 of Article XXVIII.

ARTICLE XXV

Add a new Agreed Minute:

The provisions of Article XXV apply to the protection of described personnel and their property in the same manner that they apply to the installations, equipment, property, records, and official information of the United States.

These Agreed Minutes shall enter into force one month after the date of a written notification from the Government of the Republic of Korea to the Government of the United

States of America that it has approved these Agreed Minutes in accordance with its legal procedures.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed these Agreed Minutes.

DONE at Seoul this day of January, 2001, in duplicate, in the English and Korean languages, both texts being equally authentic, and in the case of divergence, the English text shall prevail.

FOR THE UNITED STATES
OF AMERICA:

FOR THE REPUBLIC
OF KOREA:

**UNDERSTANDINGS TO THE AGREEMENT UNDER ARTICLE IV OF THE
MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA
AND THE REPUBLIC OF KOREA REGARDING FACILITIES AND AREAS AND
THE STATUS OF UNITED STATES ARMED FORCES IN THE REPUBLIC OF
KOREA AND RELATED AGREED MINUTES, AS AMENDED**

The United States of America and the Republic of Korea have agreed to the following Understandings:

ARTICLE II

Paragraph 1(b)

The Republic of Korea, through the Joint Committee or its Facilities and Areas Subcommittee, may request the United States armed forces to waive the reserved right of re-entry on those facilities and areas that have been returned with the reserved right of re-entry, and the United States armed forces shall give sympathetic consideration to such request if such facilities and areas are not deemed to be re-entered in the foreseeable future.

Paragraph 3

1. The United States and the Republic of Korea shall review, on at least an annual basis, all facilities and areas granted under Article II of the Status of Forces Agreement with a view to returning the facilities and areas no longer needed for the use specified in the original acquisition document at the time of the grant or future programmed use. This does not preclude the Republic of Korea from requesting the United States armed forces through the Joint Committee or its Facilities and Areas Subcommittee for return of specific facilities and areas at any time.
2. Whenever there is a change in the use of granted facilities and areas as originally listed on the acquisition documents recording the grant, the United States will notify and consult with the Republic of Korea.
 - (a) In a case in which the United States expresses a need to continue to use the granted area and facility, the Facilities and Areas Subcommittee will conduct a survey

of the granted area. The survey results and the new use of the granted area will be properly recorded on the acquisition documents.

(b) In a case in which the granted area and facility is programmed for use, such as for major military construction or unit realignment, by the United States, the Facilities and Areas Subcommittee will conduct a survey of the granted area. The programmed use will be properly recorded on the acquisition documents with the expected program start date, not to exceed three years. If the programmed use is expected to exceed three years due to internal legislative constraints, the Joint Committee shall be notified and determine if an extension of the program start date is warranted.

(c) In a case in which the Facilities and Areas Subcommittee determines that there is no existing use or programmed use for an area or facility, the Facilities and Area Subcommittee will report the results of its review to the Joint Committee with a recommendation that the area be returned. The Joint Committee shall review the recommendation and direct the return of the area or facility. The United States will return the area or facility under terms and conditions approved by the Joint Committee.

3. In order to assist an accurate annual review of granted facilities and areas as envisaged in paragraph 1 of this Understanding, the Joint Committee will develop procedures to jointly survey existing facilities and areas. Joint survey procedures should result in a determination of the boundaries and size (area) of granted area(s), the numbers of buildings and structures on granted areas, the size and area of those structures and buildings, and verification of the general category of use of each granted facility and area. The results of joint surveys will be used to ensure that properly executed acquisition documents exist and are properly filed with the real estate representatives and offices of record of both Parties, and to determine whether there is a need to return the facility or area.

4. If a case is reported to the Joint Committee that use of a granted area or facility is impaired due to constraints, such as encroachment, the Facilities and Areas Subcommittee shall report the constraint to the Joint Committee and immediately engage in consultations with a view toward removing the constraint. The Republic of Korea will promptly initiate steps to eliminate the constraint including taking administrative measures acceptable to both sides. The United States armed forces will also take necessary measures to properly manage and prevent encroachment to the extent possible of granted areas and facilities of which the United States has full rights of use, and the Republic of Korea will provide administrative support upon request of the United States armed forces.

ARTICLE III

Paragraph 1

Consistent with the right of the United States to take “all the measures necessary for their establishment, operation, safeguarding and control” within granted facilities and areas, the United States shall notify and consult with the Government of the Republic of Korea on a timely basis about planned (1) modification or demolition (removal) of indigenous buildings and (2) new construction or alteration as defined by the Joint Committee that may affect the ability of local Korean providers or communities to provide relevant utilities and services, or may affect health and public safety in local communities. The United States shall notify and consult, which may include providing an initial planning document, with the Government of the Republic of Korea in sufficient time to allow a coordinated review of planned construction with local governments. The Joint Committee will develop the format of the “initial planning document.” The Government of the Republic of Korea shall consult with the United States armed forces on the results of any local coordination. The United States will give due consideration to the views expressed by the Republic of Korea. This procedure does not preclude the United States armed forces from making direct coordination with a local government for planning purposes.

ARTICLE IX

Paragraph 5

1. Detailed procedures relating to examination by Republic of Korea customs inspectors of mail delivered through United States military post office channels will be specified in a separate implementing agreement.
2. Republic of Korea customs authorities may be present at inspections by United States authorities, of household goods or hold baggage shipments upon delivery to individual members of the armed forces or the civilian component or their dependents, at their quarters and in their presence. Such customs authorities of the Republic of Korea may observe any such inspections scheduled to be performed by United States authorities. Unscheduled inspections will be arranged by United States authorities upon adequate advance notice by Republic of Korea customs authorities of serious suspicion that contraband or items in unreasonable quantities may be contained in specific shipments. Customs authorities of the Republic of Korea shall be accorded the opportunity to observe such unscheduled inspections at the

quarters, and in the presence of the individual member, dependent or authorized agent.

3. Republic of Korea customs authorities shall not make customs examination on military cargo consigned to the United States armed forces including their authorized procurement agencies and their non-appropriated fund organizations provided for in Article XIII. As for the cargo consigned to non-appropriated fund organizations, the United States authorities will furnish on a routine basis to the Republic of Korea authorities pertinent information including cargo manifests and shipping documents. Other pertinent information will be provided on request through the Joint Committee or its Ad Hoc Subcommittee on Illegal Transactions in Duty-Free Goods.

Paragraph 6

Authorities of the United States will confer with authorities of the Republic of Korea on implementation procedures that are satisfactory to the Government of the Republic of Korea and that comply with all applicable Republic of Korea government customs regulations. Authorities of the United States may at any time impose more but not less stringent restrictions on their military personnel, members of the civilian component, invited contractor employees, and dependents of the foregoing, than are required by the Republic of Korea.

Agreed Minute, Paragraph 4

Appropriate Republic of Korea officials may be present as observers during inspections by United States officials of members of the United States armed forces under orders entering the Republic of Korea.

ARTICLE XIII

The United States authorities will make reasonable and practical efforts to control access of unqualified persons to the United States armed forces Non-Appropriated Fund (NAF) organizations. The United States authorities will review biannually all Korean civilian memberships in United States armed forces NAF organizations and their reporting procedures to ensure compliance with applicable SOFA provisions.

ARTICLE XV

Paragraph 1

1. If the United States armed forces determine that there would be a significant advantage for United States-Republic of Korea mutual defense to utilize one or more third-country corporations as United States armed forces invited contractors, the authorities of the Government of the Republic of Korea shall give sympathetic consideration to a United States request to extend the benefits of this Agreement to such non-United States corporations.
2. The United States armed forces may bring into the Republic of Korea, without privileges, third-country contractor employees possessing special skills not available from the Korean labor force.

ARTICLE XVI

1. United States armed forces contracting activities shall respect Republic of Korea Government administrative requirements for registration of local contractor firms. No special requirements will be imposed solely upon contractors doing business with the United States armed forces. Contractors awarded contracts with United States armed forces will not be required to join any military supply associations or similar organizations.
2. “Administrative requirements for registration of local contractor firms” refers to Korean government legal criteria and procedures for registration and licensing of local firms.

ARTICLE XVII

Paragraph 3 and Agreed Minute 2 and 4

1. The term “the United States armed forces,” used in paragraph 3, shall be understood as to include the persons referred to in the first paragraph of Article XV.
2. The term “conform,” used in paragraph 3, means that conditions of employment, compensation, and labor-management relations shall, unless otherwise agreed upon in this Article, or by the Joint Committee in accordance with the procedures stipulated in Agreed Minute 4, be in substantial agreement with those conditions laid down by the labor laws of the Republic of Korea. When there is an issue as to whether conditions of employment,

compensation, and labor-management relations are in substantial agreement, either government may refer such matters to the Joint Committee in accordance with the procedures stipulated in Agreed Minute 4.

3. It is understood that the term “military requirements,” used in Paragraph 3 and Agreed Minutes 2 and 4, refers to such cases, wherein solutions are urgently needed for the United States armed forces to accomplish its military mission. The term covers such circumstances as war, a state of emergency equivalent to war, and situations that affect the ability of the United States armed forces to maintain a state of readiness to address such circumstances, such as mission changes and resource constraints imposed by U.S. law.

4. It is understood that the deviation from labor legislation of the Republic of Korea provided for in Agreed Minute 4 need not be referred to the Joint Committee in cases when such referral would seriously hamper military operations in an emergency.

Paragraph 4(a)

1. The Republic of Korea and United States armed forces will exert utmost efforts to expedite a just and fair resolution of labor disputes arising under this paragraph.

2. The United States armed forces will notify appropriate officials of the Republic of Korea Ministry of Labor, prior to adverse action by United States armed forces against an official of the Korean Employees Union.

Paragraph 4(a)(i)

Whereas the process for labor-management dispute resolution and the role of the Office of Labor Affairs referenced in Article XVII, Paragraph 4(a)(i) have changed, the parties concerned will submit disputes for mediation to the Labor Relations Commission (LRC) of the Republic of Korea, which will oversee the mediation of disputes.

The process will be as follows:

1. The LRC will create a committee to mediate each dispute.
2. A committee will consist of three members.

3. The parties to the dispute will select the three members by alternately deleting names from a standing list of public service mediators maintained by the National LRC.
4. Mediation will be completed within 15 days after the LRC has received the request for mediation.
5. The parties concerned may agree to extend a period of LRC review an additional 15 days.
6. Details of the mediation process will be as agreed upon by the Joint Committee.
7. The intervention of the LRC mediation committee is advisory and non-binding on the parties to the dispute.
8. If the mediation committee does not reach agreement, the matter will be referred to the Joint Committee.

Paragraph 4(a)(ii)

1. To facilitate its conciliation efforts, the special committee shall, in conducting investigation into the dispute in question, have access to all relevant information and all persons having knowledge of the dispute, including management representatives.

2. (a) It is understood that disputes referred to a special committee under this paragraph primarily involve collective action issues. However, the Republic of Korea Ministry of Labor may refer certain individual cases to this committee, through the Joint Committee or its Labor Subcommittee, if notice of its petition for further review is received within sixty (60) days of receipt by the employee of management's final decision in the case and if it finds, after reviewing the United States armed forces files related to the case, that:

- (i) Management has rendered a final decision after exhaustion of the normal appeal process; and
- (ii) The employee concerned concurs in the petition and agrees in writing to accept the decision of the special committee as final; and
- (iii) There is reason to believe that there has been a gross miscarriage of justice or that administrative due process has not been followed.

The United States armed forces will respond to the referral request by the Ministry of Labor in a timely fashion.

(b) In such proceedings, the employee may be represented by counsel or a personal representative of his or her choice. Because of the binding effect of the committee's decisions in individual cases referred to it, the committee must arrive at a final decision and such cases will not be elevated to the Joint Committee for further resolution as provided for by paragraph 4(a)(iii). The special committee's review of individual cases will be limited to the administrative record of the case and any written briefs or oral arguments submitted by the employee or by management. The special committee shall have full power to order appropriate relief, up to and including reinstatement and back pay.

(c) The special committee will be composed of not more than six members, with equal representation from the Republic of Korea Government and the United States armed forces. All members must be able to render a fair and impartial decision; accordingly, they must not have previously participated in the case under review. All cases will be resolved by a majority decision.

Paragraph 4(a)(v)

In regard to Article XVII (4)(a)(v) and in light of changed labor practices, it is understood that neither employee organizations nor employees shall engage in any practices disruptive of normal work requirements for a period of at least 45 days from the date the application for mediation has been received by the Labor Relations Commission, at the end of which time, and consistent with the SOFA, the matter will be referred to the Joint Committee.

ARTICLE XXII

Agreed Minute Re Paragraph 1(a)

1. The Government of the Republic of Korea agrees that, upon notification under the second sentence of the Agreed Minute Re Paragraph 1(a), the military authorities of the United States may exercise jurisdiction over such persons in accordance with the terms of the Criminal Jurisdiction Article.

2. In order to avoid instances when, because of the existence of martial law in the Republic of Korea, neither nation may exercise jurisdiction over United States civilians and dependents for offenses normally punishable by Korean civilian courts, and at the same time to

guarantee to such persons the right to a fair trial, the United States armed forces will sympathetically consider requests by the Republic of Korea to exercise jurisdiction over United States civilians and dependents for such offenses if the Republic of Korea ensures that such persons will be tried in regularly constituted civilian courts with normal SOFA safeguards.

Paragraph 1(b)

The civil authorities of the Republic of Korea will retain full control over the arrest, investigation and trial of a member of the United States armed forces or civilian component or a dependent.

Agreed Minute Re Paragraph 2

It is understood that the United States authorities shall exercise utmost restraint in requesting waivers of exclusive jurisdiction.

Agreed Minute Re Paragraph 3(a)

1. A substantial departure from the acts a person is required to perform in a particular duty will usually indicate an act outside of the person's "official duty."
2. A duty certificate shall be issued only upon the advice of a Staff Judge Advocate, and the competent authority issuing the duty certificate shall be a general grade officer.
3. (a) The certificate will be conclusive unless modification is agreed upon. However, the Republic of Korea authorities may discuss, question or object to any United States armed forces official duty certificate. The United States authorities shall give due consideration to any opinion which may be raised by the Republic of Korea authorities in this regard.
- (b) With respect to the right of lower level authorities of the Republic of Korea to discuss, question, or object to any United States armed forces official duty certificate, the appropriate branch, district, or similar level prosecutor may discuss any questionable official duty certificate with the Staff Judge Advocate or appropriate legal officer within ten (10) days of receipt. If satisfactory resolution is not reached within ten (10) days of the prosecutor's receipt of such certificate, appropriate officials of the Ministry of Justice may then discuss any remaining disagreement with the Judge Advocate, United States Forces, Korea, or a designee of the Judge Advocate. If an agreement cannot be reached within twenty (20) days after the official duty certificate was originally filed with the local prosecutor, the remaining disagreement may be referred to the Joint Committee or its Criminal Jurisdiction

Subcommittee. If the Joint Committee or its Criminal Jurisdiction Subcommittee cannot resolve any remaining disagreement within such time as it deems reasonable, the matter may be referred for resolution through diplomatic channels. To ensure that the accused is not deprived of the right to a prompt and speedy trial as a result of protracted reconsideration of the duty certificate, if mutual agreement is not reached within thirty (30) days after an official duty certificate is first filed, the military authorities of the United States may proceed to trial by court-martial, impose nonjudicial punishment, or make other appropriate disposition of the charges despite any continuing discussions.

Paragraph 3(b) of the Agreed Minute Re Paragraph 3(b)

The recitation therein of the right of representatives of the Republic of Korea to attend trials of members of the armed forces, civilian component, or their dependents when held outside the Republic of Korea shall not be construed to deprive such representatives of the opportunity to attend such trials when held within the Republic of Korea.

Paragraph 3(c)

1. If a State desires to ask the other State for a waiver of its primary right to exercise jurisdiction, it shall present a written request as soon as practicable but not later than twenty-one (21) days after it is notified or otherwise apprised of the commission of an alleged offense.
2. Upon receipt of the written request, the State having the primary jurisdiction shall make a decision on the request and inform the other State of such decision within twenty-eight (28) days.
3. When there are special reasons, the State having the primary jurisdiction may, identifying the case and prior to the expiration of the original twenty-eight (28) day period, request an extension for a specific period of days normally not exceeding an additional fourteen (14) days.
4. When the State having the primary jurisdiction makes a decision not to exercise jurisdiction or when it does not inform the other State of its decision within the prescribed period, with any extension, the requesting State may exercise its concurrent jurisdiction.

Paragraph 5(c)

1. The authorities of the Republic of Korea can question members of the United States armed forces or civilian component or dependents in the presence of a duly appointed United

States representative and make preliminary investigation into the case after their arrest and before transferring them to the military authorities of the United States. The right to legal representation exists from the moment of arrest or detention and includes the right to have counsel present, and to consult confidentially with such counsel at all preliminary investigations, examinations, pretrial hearings, the trial itself, and subsequent proceedings at which the accused is present. The United States representative is to be an impartial observer and neither the United States representative nor the counsel shall interfere with any questioning.

2. Requests for the transfer of “pretrial custody” (which means “custody before final conviction”) of a member of the United States armed forces or the civilian component, or of a dependent, with respect to a case over which the Republic of Korea has the primary right to exercise jurisdiction, at the time of indictment or thereafter, may be made in those categories of cases as set out in the Agreed Minute re Article XXII Paragraph 5(c) or thereafter agreed by the Joint Committee, where there is adequate cause and necessity for such custody.

3. In cases where custody has not been transferred to or retained by the Republic of Korea authorities under paragraphs 2, 3, 10 or 11 of the Agreed Minute re Article XXII, Paragraph 5(c), the custody of an accused member of the United States armed forces or the civilian component, or of a dependent, with respect to a case over which the Republic of Korea has the primary right to exercise jurisdiction, shall, if he is in the hands of the military authorities of the United States, remain with the military authorities of the United States pending the conclusion of all judicial proceedings and until custody is requested by the authorities of the Republic of Korea.

4. The military authorities of the United States will give full account to any request by the Republic of Korea authorities for "pretrial confinement" (which means “confinement before final conviction”) by the United States military authorities of an accused with respect to a serious case over which the Republic of Korea has the primary right to exercise jurisdiction.

5. The authorities of the Republic of Korea will give sympathetic consideration to a request from the military authorities of the United States for assistance in maintaining custody of an accused member of the United States armed forces, the civilian component or a dependent. This does not obligate the authorities of the Republic of Korea to provide any assistance to the military authorities of the United States in maintaining military custody of an accused member of the United States armed forces, the civilian component, or a dependent. Rather, it is to provide a procedure for transfer of custody to the authorities of the Republic of Korea when the military authorities of the United States believe they will be unable to make

any such accused available to the authorities of the Republic of Korea upon their request for purposes of investigation and trial.

6. The Republic of Korea authorities shall not question an accused who is in the custody of the Republic of Korea, after indictment, about the facts, circumstances or events that form the basis for the offenses for which the accused has been indicted or could have been charged based on the same set of events for which the accused was indicted. The Republic of Korea authorities may question such an accused about totally unrelated facts, circumstances or events that form or may form the basis for unrelated offenses. In such an event the Republic of Korea authorities shall notify the Judge Advocate, United States Forces Korea. A previous request for counsel shall be deemed to apply to any questioning.

7. In cases where custody has been retained by the Republic of Korea authorities under paragraph 2 of the Agreed Minute re Article XXII, Paragraph 5(c), the Republic of Korea authorities shall forgo all questioning of an accused who wants to have counsel present beyond that required to ascertain the status and identity of an accused until counsel is retained and present for the preliminary investigation along with the United States representative. In such cases, the requirement under Korean law to apply for a detention warrant within 48 hours of arrest shall be suspended until counsel is available.

8. The presence of counsel at any interview or interrogation while an accused is in the custody of the Republic of Korea authorities shall not be waived without a written waiver signed by the accused after being advised of his rights. The United States representative shall also sign the written waiver, attesting to the fact that the accused signed the written waiver knowingly and voluntarily after being advised of his rights. In such cases, the authorities of the Republic of Korea shall ensure that no statement taken or received in the absence of counsel and no evidence derived from any such statement, shall be admissible in any subsequent proceeding unless the presence of counsel was properly waived in accordance with this paragraph.

9. The privacy and presumption of innocence of the accused will be respected throughout the investigative and judicial proceedings, especially during reenactments. All such proceedings shall be conducted in a manner that does not prejudice the right of the accused to a fair trial. This paragraph shall not be a basis to limit any line of questioning by the investigative authorities of the Republic of Korea.

10. The authorities of the Republic of Korea shall guarantee that any facilities for pretrial confinement or restriction meet or exceed the standards established by the Joint Committee and

shall be approved in advance by the Joint Committee. The accused shall be permitted regular communication with, and visitation by, appropriate representatives of the United States and by legal counsel and family members, shall not be commingled with convicted prisoners, and shall not be made to perform penal servitude or labor prior to final conviction. The Republic of Korea shall give sympathetic consideration to any special requests regarding the frequency and duration of family visitation. Counsel for the accused shall have the right to visit the accused and consult confidentially at any time during normal duty hours and for such duration as counsel and the accused deem necessary.

11. In consonance with the requirements of Article XXII, Paragraph 9(a):

(a) an accused must be indicted or released from Korean confinement within thirty (30) days, or such shorter period as may be established under the law of the Republic of Korea, of the date the accused is first placed in pretrial confinement by the authorities of the Republic of Korea;

(b) the detention of an accused shall not exceed six months before the completion of the initial trial or such shorter period as may be established under the law of the Republic of Korea, or the accused must be released from confinement by the authorities of the Republic of Korea;

(c) the detention of an accused during the initial appeal shall not exceed four months from the date of expiration of the detention by the decision of the trial court or such shorter period as may be established under the law of the Republic of Korea, or the accused must be released from confinement by the authorities of the Republic of Korea; and,

(d) the detention of an accused during the second appeal shall not exceed four months from the date of expiration of the detention by the decision of the initial appellate court or such shorter period as may be established under the law of the Republic of Korea, or the accused must be released from confinement by the authorities of the Republic of Korea.

12. The period of suspension of the trial procedure shall not be included into the period under subparagraphs (b), (c) and (d) of the preceding paragraph, if the suspension is

(a) caused by the request for disqualification of the judge made by the accused,

(b) for the benefit of the accused in preparation of the defense in case of addition, withdrawal or amendment of charges or applicable provisions, or

(c) due to the mental or physical incapacity of the accused.

Paragraph 5(d)

With regard to the custody of the accused in the hands of the authorities of the Republic of Korea in connection with security offenses there must be mutual United States and Republic of Korea agreement as to the circumstances in which such custody is appropriate.

Agreed Minute Re Paragraph 9, Subparagraph (a) of Second Unnumbered Paragraph

Under the appellate procedure of the courts of the Republic of Korea, the accused may request a re-examination of the evidence, including new evidence and witnesses, as a basis for new findings of fact by the appellate court.

ARTICLE XXIII

Paragraphs 5 and 6

1. The Joint Committee shall establish procedures for the exercise of civil jurisdiction by the courts of the Republic of Korea.
2. The claims processing authorities of the United States and the Republic of Korea will mutually endeavor to expedite the adjudication and payment of claims arising from traffic accidents, including when appropriate, the consideration of advance payments to accommodate medical treatment costs.

ARTICLE XXVI

1. United States military authorities will present to the Republic of Korea Ministry of Health and Welfare on a quarterly basis, certification that no quarantinable diseases have been detected at any ports of entry authorized pursuant to the Status of Forces Agreement. However, if any such diseases are detected, it is understood that United States armed forces will impose appropriate quarantine measures, and immediately notify appropriate Republic of Korea public health authorities.

2. In order to prevent the entry of animal and plant pests and diseases into Korea, and to assure supplies of food without undue interruption for members of the United States armed forces, civilian component and their dependents, authorities of the two Governments agree to joint inspections to be conducted in accordance with procedures to be established by the Joint Committee.

3. United States military authorities will immediately provide appropriate health authorities of the Republic of Korea with appropriate information concerning at-risk Korean national contacts of United States armed forces personnel detected as suffering from Acquired Immune Deficiency Syndrome (AIDS) or infected with Human Immunodeficiency Virus (HIV). United States military authorities will also continue to provide appropriate Republic of Korea health authorities with quarterly statistical information concerning detection of AIDS or HIV among its personnel. Furthermore, United States military authorities will provide the Republic of Korea Government with epidemiological information periodically and on an ad hoc basis, with direct contacts through the staff of the Preventive Medicine Unit of the 18th Medical Command or appropriate successor unit.

Both the Republic of Korea and the United States agree that as new issues relating to implementation of the SOFA arise in the future, they should continue to be assigned to the Joint Committee or its Subcommittees for resolution.

These Understandings shall enter into force one month after the date of a written notification from the Government of the Republic of Korea to the Government of the United States of America that it has approved these Understandings in accordance with its legal procedures.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed these Understandings.

DONE at Seoul this day of January, 2001, in duplicate, in the English and Korean languages, both texts being equally authentic, and in the case of divergence, the English text shall prevail.

FOR THE UNITED STATES
OF AMERICA:

FOR THE REPUBLIC
OF KOREA:



**JOINT COMMITTEE
UNDER
THE UNITED STATES AND THE REPUBLIC OF KOREA
STATUS OF FORCES AGREEMENT**

**AGREED VIEWS PERTAINING TO FACILITIES AND AREAS AND
THE STATUS OF UNITED STATES ARMED FORCES IN KOREA**

In accordance with Article XXVIII of the United States-Republic of Korea (US-ROK) Status of Forces Agreement (SOFA) and pursuant to negotiations between delegations of the Government of the United States of America and the Government of the Republic of Korea between August and December 2000, the attached agreed views are approved by the US-ROK Joint Committee.

Signed at Seoul, Republic of Korea on January , 2001

CHARLES R. HEFLEBOWER
Lieutenant General
United States Air Force
United States Representative

SONG MIN-SOON
Director General, North American Affairs Bureau
Ministry of Foreign Affairs and Trade
Republic of Korea Representative

AGREED VIEWS PERTAINING TO FACILITIES AND AREAS AND THE STATUS OF UNITED STATES ARMED FORCES IN KOREA

Article I, Definitions. Agreed View No. 1. Pursuant to US-ROK SOFA Article I, Paragraph (c). With regard to subparagraphs (i) and (ii) of Article I, Paragraph (c), it is understood that the term “children” includes natural children, adopted children and step-children, as well as wards under 21 whose care and physical custody has been entrusted to a sponsor or sponsor’s spouse by legal decree or other instrument issued by a court or placement agency. The term “parents” means natural parents, adoptive parents who adopted the sponsor before the sponsor’s 21st birthday, parents-in-law, adoptive parents-in-law who adopted the sponsor’s spouse before the spouse’s 21st birthday, stepparents and stepparents-in-law. The term “other relatives” means family members or wards who have been declared legally dependent by a court decree or by a government agency of the United States or the Republic of Korea and other persons or categories of persons as agreed by the Joint Committee. The military authorities of the United States will notify the authorities of the Republic of Korea whenever a person or persons are granted status as dependents under this agreement in the category of “other relatives.”

Article XVII, Labor. Agreed View No. 1. Pursuant to the Understanding re US-ROK SOFA Article XVII, Paragraph 4(a)(v), it is agreed that the cooling-off period shall be up to 45 days unless the Joint Committee determines that such action seriously hampers military operations of the United States armed forces for the joint defense of the Republic of Korea. In the event an agreement cannot be reached on this question in the Joint Committee, it may be made the subject of review through discussions between appropriate officials of the Government of the Republic of Korea and the diplomatic mission of the United States of America.

Article XVII, Labor. Agreed View No. 2. Pursuant to the Understanding, Paragraph 3, re US-ROK SOFA, Article XVII, Paragraph 3 and Agreed Minutes 2 and 4, it is agreed that the United States Department of Defense may impose mission changes or resource constraints on the United States Forces Korea to reflect changes precipitated in law, appropriations, or national policy.

Article XXII, Criminal Jurisdiction. Agreed View No. 21. Pursuant to US-ROK SOFA, Article XXII, Paragraph 5(c).

1. Categories of cases to be defined as a heinous crime of murder or an egregious rape, under Paragraph 2 of the Agreed Minute re Article XXII, Paragraph 5(c), will be determined by the Joint Committee. If a case within that purview arises prior to such determination by the Joint Committee, it shall be handled by the two governments on a case by case basis.

2. When the authorities of the Republic of Korea intend to request the transfer of custody at the time of indictment:

- (a) The Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form noting such intent to the Judge Advocate, United States Forces Korea. The form shall

be filled-out and contain the name of the person whose custody is to be sought and the offense for which the person will be indicted. The form will also state, if possible, the date, time, and place at which the detention hearing following the prosecutor's request for detention warrant will be conducted in accordance with the law of the Republic of Korea. A copy of the request for detention warrant shall accompany the form.

(b) If, following such hearing, the authorities of the Republic of Korea decide to request the transfer of custody of the accused, the Director shall submit a standard form containing the request to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought, and the offense for which the person will be indicted. The form shall also contain a brief explanation of how the case qualifies as being eligible for pretrial transfer of custody, and an assurance to indict the person within 24 hours of transfer of custody, or otherwise, to release him. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. A copy of the detention warrant issued by the judge at the detention hearing shall accompany the request form.

(c) Upon receipt of the form, the Judge Advocate, United States Forces Korea, shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The authorities of the Republic of Korea shall provide to the Judge Advocate, United States Forces Korea, a copy of the prepared indictment approved for filing. The Provost Marshal shall thereafter transfer the person to the authorities of the Republic of Korea by the above requested date. The indictment must be filed within 24 hours of transfer of custody or the person must be released.

3. During the trial, the judge in charge of the trial of the accused can issue a detention warrant at any time, upon which the military authorities of the United States shall transfer custody to the Republic of Korea authorities. After issuance of the detention warrant, the Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form containing the request for the transfer of custody to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought and the offense for which the person was indicted. The form shall also contain a brief explanation of how the case qualifies as being eligible for pretrial transfer of custody. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. Copies of the indictment and the detention warrant shall accompany the request form. Upon receipt of the form, the Judge Advocate shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The

Provost Marshal shall transfer him to the authorities of the Republic of Korea by the above requested date.

4. Under Paragraph 11 of the Agreed Minute re Article XXII, Paragraph 5(c), the authorities of the Republic of Korea may submit requests for the transfer of pretrial custody to the Judge Advocate, United States Forces Korea, in cases not otherwise covered when it has a material interest in such cases. When the military authorities of the United States agree to such requests, the provisions of the preceding paragraphs 1 and 2 shall apply *mutatis mutandis* to the procedures for the transfer of custody as appropriate.

5. When a member of the United States armed forces, of the civilian component or a dependent is arrested, detained or otherwise taken into custody by the authorities of the Republic of Korea, the arresting Republic of Korea law enforcement authorities will immediately notify the nearest Provost Marshal, United States Forces Korea, that such apprehension has been made and will, upon request, hand the person over. When the military authorities of the United States intend to request the transfer of custody of the person, the Provost Marshal shall prepare a standard form containing the request and provide it to the law enforcement authorities of the Republic of Korea maintaining the custody of the person. The form shall contain the name of the person whose custody is being sought, and the requested date for the transfer of custody.

6. When the authorities of the Republic of Korea intend to request the transfer of custody of a person in the custody of the military authorities of the United States, who has been sentenced to a term of confinement which sentence is not suspended, and where all judicial proceedings in the case have been concluded, the Director of the 4th Prosecution Division of the Prosecution Bureau, Ministry of Justice, shall submit a standard form containing the request to the Judge Advocate, United States Forces Korea. The form shall contain the name of the person whose custody is being sought, the offense of which he was convicted, the approved sentence and the length of confinement. The form will also state the requested date for the transfer of custody, such date to be not less than five (5) calendar days from the date the request for transfer of custody is received by the Judge Advocate. Upon receipt of the form, the Judge Advocate shall notify the Provost Marshal, United States Forces Korea, who shall arrange for the physical transfer of the person. The Provost Marshal shall transfer him to the authorities of the Republic of Korea by the above requested date.

Article XXII, Criminal Jurisdiction. Agreed View No. 22. Pursuant to the Understanding, Paragraph 10, re US-ROK SOFA, Article XXII, Paragraph 5(c). The standards for any facilities for pretrial confinement or restriction provided under Paragraph 10 of the Understanding re Article XXII, Paragraph 5(c) shall meet or exceed the standards established by the Joint Committee, for post-trial confinement facilities as set forth in Agreed View 13. Prompt notice of any transfer between facilities shall be given to the Judge Advocate, United States Forces Korea.

Article XXIII, Claims. Agreed View No. 1. Pursuant to US-ROK SOFA Article XXIII, Paragraph 5 and Paragraph 6. The Parties agree that paragraphs 5 and 6 of Article XXIII shall be the efficient legal remedy for traffic accidents causing property damage by a member of the United States armed forces or by a member of the civilian component. Such accidents covered by Article XXIII, Paragraph 5 or by the minimum insurance levels of \$25,000 property damage liability per accident or thereafter agreed by the Joint Committee shall not be reported as a criminal violation. This is without prejudice to the rights of the victim.

Article XXIII, Claims. Agreed View No. 2. Pursuant to Paragraph 1 of Understandings, re US-ROK SOFA Article XXIII, Paragraph 5 and Paragraph 6.

1. (a) The Republic of Korea court in authority may request a liaison agency established or designated by the military authorities of the United States to ensure service of documents arising in non-criminal proceedings upon members of the United States armed forces, the civilian component, or upon dependents or invited contractors.

(b) Receipt of a request forwarded by a Republic of Korea court for service shall be acknowledged by the liaison agency without delay. Service shall be effective when the document to be served is delivered to the addressee by his unit commander or by a representative of the liaison agency. Notification in writing that service has been effected shall be given without delay to the Republic of Korea court in authority.

(c) (i) If, upon the expiry of a period of twenty-one days from the date of acknowledgement of receipt by the liaison agency, the Republic of Korea court in authority has received neither notification in writing that service has been effected in accordance with sub-paragraph (b) of this paragraph nor any communication stating that it has not been possible to effect service, the court in authority shall forward to the liaison agency another copy of the request for service with notice that seven days after receipt by the liaison agency service shall be deemed to have been effected. At the expiry of this seven-day period, service shall be deemed to have been effected.

(ii) Service shall not, however, be deemed to have been effected if the liaison agency notifies the Republic of Korea court in authority prior to the expiry of the period of twenty-one days or seven days, as the case may be, that it has not been able to effect service. The liaison agency shall inform the Republic of Korea court in authority in writing of the reasons for its inability to do so.

(iii) If the person to be served has permanently left the Republic of Korea, the liaison agency shall notify the Republic of Korea court immediately of this fact, and shall render the Republic of Korea court all assistance in its power.

(iv) In the case specified in item (ii) of this sub-paragraph, the liaison agency may also request the Republic of Korea court in authority to extend the period stating in such request the reasons therefor. If this request for extension is accepted by the Republic of Korea court in authority, items (i) and (ii) shall be applicable *mutatis mutandis* to the period so extended.

2. (a) When a plaint or other document initiating non-criminal proceedings before a Republic of Korea court in authority is served other than through the liaison agency, the Republic of Korea court in authority shall so notify the liaison agency in writing prior to or immediately upon service of process. The written notification shall include a copy of the plaint or other document initiating non-criminal proceedings.

(b) Service of documents upon members of the United States armed forces, the civilian component, or upon dependents or invited contractors by publication may, in addition, be effected by the publication of an extract from the document to be served in a journal to be named by, and in the language of, the United States; or if the United States so decides, by posting in the liaison agency office.

(c) Where service of any document is to be effected by a Republic of Korea process server upon a member of the United States armed forces, the civilian component, or a dependent or an invited contractor who is within facilities and areas of the United States armed forces, the military authorities of the United States shall take all measures necessary to enable the Republic of Korea process server to effect such service.

3. (a) Where a member of the United States armed forces or the civilian component or a dependent or an invited contractor is summoned to appear before the Republic of Korea court, the military authorities of the United States, unless military exigency requires otherwise, shall take all measures within their authority to secure his attendance, provided that such attendance is compulsory under Korean law. This does not apply in the case of dependents if the military authorities cannot give effective support to the Republic of Korea court to secure attendance. If the summons is not served through the liaison agency, the latter shall be informed immediately of the summons by the Republic of Korea court, which shall give the name of the addressee and his address, as well as the time and place of the hearing or taking of evidence.

(b) Where the Republic of Korea court requests the military authorities of the United States to submit documents or articles for evidence, or provide official information for non-criminal proceedings, the military authorities of the United States shall comply with the request, unless it is contrary to United States law. Such request shall be made through the liaison agency.

(c) Where the Republic of Korea court requests the military authorities of the United States to allow access to facilities and areas of the United States armed forces for the purpose of procuring evidence in non-criminal proceedings, and the rendering of all assistance possible to procure such evidence, the military authorities of the United States shall comply with the request, unless it is contrary to United States law. Such request shall be made through the liaison agency.

4. (a) The military authorities shall render all assistance in their power to secure compliance with judgments, decisions, orders and settlements in non-criminal proceedings of Republic of Korea courts in authority.

(b) A member of the United States armed forces, the civilian component, a dependent or an invited contractor may be deprived of his personal liberty by the Republic of Korea court in authority in non-criminal proceedings only to punish contempt of court or to secure compliance with a judicial or administrative decision or order that he culpably has failed or fails to obey.

Deprivation of liberty shall not be authorized with respect to an act or omission done in the performance of official duty. A certificate by the military authorities of the United States stating that the act or omission concerned was done in the performance of official duty shall be binding on the Republic of Korea court. In other cases the Republic of Korea authorities shall give due consideration to representations of the military authorities of the United States that compelling interests contravene such deprivation of liberty.

(c) A deprivation of liberty pursuant to sub-paragraph (b) of this paragraph may take place only after the military authorities of the United States have arranged, if they find it necessary, for the replacement of the individual concerned. The military authorities of the United States shall take all necessary and reasonably acceptable measures to this end without delay, and render all assistance within their power to the Republic of Korea authorities responsible for enforcing an order or decision in accordance with this paragraph.

(d) A payment due to a member of the United States armed forces, the civilian component or an employee of the U.S. Government shall be subject to attachment, garnishment or other form of execution ordered by a Republic of Korea court in authority only to the extent permitted by United States law. Assistance under paragraph (a) of this Article shall also include providing information on possible execution against pay already disbursed.

(e) Where the enforcement of a judgment, decision, order and settlement in non-criminal proceedings of the Republic of Korea court in authority is to take place within a installation of a force, such enforcement shall be effected by a Korean enforcement officer in the presence of a representative of the military authorities of the United States.

MEMORANDUM OF UNDERSTANDING

Preferential Hiring of Korean Employees

and

Employment of Family Members

The United States of America and the Republic of Korea agree to the following:

1. United States Forces Korea (USFK) will employ exclusively Korean Nationals for those civilian component positions that have been designated by USFK for occupancy by Korean Nationals as of the date of entry into force of this Memorandum of Understanding. Although those positions may be open to dependents of the US armed forces and dependents of civilian component members, the dependents will be considered for the vacancies only when there are no Korean Nationals who are available and qualified as candidates. Positions designated for occupancy by Korean Nationals may be changed into positions for occupancy by others only for reasons of national security.
2. The Republic of Korea will positively consider giving employment permission to dependents of the US armed forces members and dependents of members of the civilian component stationed in the Republic of Korea while they are retaining their A-3 status after they enter Korea with an A-3 visa. Any of the eight employment status categories (E-1 through E-8) may be available to dependents of the members of the US armed forces and dependents of the civilian component as long as they meet employment requirements for a position stipulated by the Korean Immigration Law. Republic of Korea tax laws and regulations shall apply for any income not exempt from taxation under paragraph 2, of Article XIV of the United States-Republic of Korea Status of Forces Agreement (SOFA), as amended.

This Memorandum of Understanding shall enter into force one month after the date of a written notification from the Government of the Republic of Korea to the Government of the United States of America that it has approved this Memorandum of Understanding in accordance with its legal procedures.

DONE at Seoul this day of January, 2001, in duplicate, in the English and Korean languages.

FOR THE UNITED STATES
OF AMERICA:

FOR THE REPUBLIC
OF KOREA:

MEMORANDUM OF SPECIAL UNDERSTANDINGS ON ENVIRONMENTAL PROTECTION

Consistent with Paragraph 2 of the Agreed Minutes to Article III of the US-ROK Status of Forces Agreement,

Recognizing the importance of environmental protection, including the prevention of pollution on facilities and areas granted to the United States Armed Forces in Korea under the Mutual Defense Treaty of 1953 and the United States-Republic of Korea Status of Forces Agreement (SOFA) and in the communities adjacent to such facilities and areas,

The Government of the United States and the Government of the Republic of Korea, consistent with their policies, have reached the following understandings on governing standards, information sharing and access, environmental performance, and environmental consultation.

Governing Standards

The Government of the United States and the Government of the Republic of Korea will continue their efforts to protect the environment through cooperating in a periodic review and update of the Environmental Governing Standards (EGS). These standards will continue to be developed with reference to the more protective standards from relevant United States standards and policy and Republic of Korea laws and regulations as generally enforced and applied within the Republic of Korea, without prejudice to the United States Forces Korea, by undertaking biennial review of the EGS for the purpose of accommodating new rules and standards. The Government of the United States confirms its policy to undertake periodic review of the EGS for the purpose of accommodating new rules and standards. If more protective rules and standards come into effect between reviews, the Government of the United States and the Government of the Republic of Korea will promptly discuss updating the EGS.

Information Sharing and Access

The Government of the United States and the Government of the Republic of Korea shall work together to exchange appropriate information regarding issues that could affect the health and environment of Republic of Korea citizens and United States military personnel, the civilian component, and their family members, through the framework of the Joint Committee established by Article XXVIII of the Status of Forces Agreement. Appropriate access to facilities and areas will be provided in accordance with procedures to be established by the Joint Committee. Through the Environmental Subcommittee of the Joint Committee, the Government of the United States and the Government of the Republic of Korea will continue to discuss, on a regular basis, environmental issues related to defense activities in the Republic of Korea under the Mutual Defense Treaty of 1953. The Environmental Subcommittee will meet

on a regular basis to review areas for information exchange, appropriate access by Korean officials to facilities and areas, and joint surveys, monitoring, and post-incident evaluations.

Environmental Performance

The Government of the United States and the Government of the Republic of Korea will consult on any risks posed by environmental contamination on United States Forces Korea facilities and areas, or in the communities adjacent to such facilities and areas. The Government of the United States confirms its policy to conduct periodic environmental performance assessments that examine, identify, and evaluate the environmental aspects of United States Forces Korea operations in order to minimize adverse environmental effects; to plan, program, and budget for these requirements accordingly; to promptly undertake to remedy contamination caused by United States Armed Forces in Korea that poses a known, imminent and substantial endangerment to human health; and to consider additional remedial measures required to protect human health. The Government of the Republic of Korea confirms its policy to take appropriate measures, in accordance with relevant laws and regulations, to respond to contamination caused by sources outside United States Forces Korea facilities and areas that poses a known, imminent, and substantial endangerment to human health.

Environmental Consultation

The Environmental Subcommittee and other relevant subcommittees of the Joint Committee will meet regularly to discuss environmental issues related to United States Forces Korea facilities and areas, as well as environmental issues related to the communities adjacent to such facilities and areas.

Through the Joint Committee, the Government of the United States and the Government of the Republic of Korea will work on appropriate procedures to realize the above understandings on environmental protection.

Signed at Seoul, Republic of Korea, on January , 2001.

FOR THE UNITED STATES
OF AMERICA:

FOR THE REPUBLIC
OF KOREA: